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OFFICE OF PETITIONS

In re Application of :
Brychcy et al. :
Application No. 10/539,033 :
Filed: June 10, 2005 :
Attorney Docket No. 2002DE143 :

ON PETITION

This is a decision on the petition filed June 25, 2008, requesting that the above-identified application be accorded a filing date of June 10, 2005, rather than the presently accorded date of June 11, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on June 10, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ED 795273289 US, showing an incorrect handwritten "date-in" of "06-11-05." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated June 10, 2005 on the cover page for the application papers. Applicant has submitted a copy of a postal service sales receipt, which shows the above Express Mail label number, as having a receipt date of June 10, 2005.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on June 10, 2005. Accordingly, the instant application is entitled to a filing date of June 10, 2005 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee. Accordingly, the \$130.00 submitted with the instant petition will be refunded to petitioner's deposit account as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for further processing with a filing date of June 10, 2005, along with a corrected filing receipt. Thereafter, the matter will be referred to Technology Center 1793 for examination in due course.

Telephone inquiries concerning this matter may be directed the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions